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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
13/737,058	05/13/97	DITZIK	

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3145 CARNEGIE COURT
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13/737,058

EXAMINER

ART UNIT

PAPER NUMBER

2774

9

DATE MAILED:

06/13/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/937,258

Applicant(s)

Richard J. Ritzik

Examiner

LAO, LUN-YI

Group Art Unit

2774

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/16/98
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-31 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 24-31 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 2774

DETAILED ACTION

Terminal Disclaimer

1. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper tames extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 24-31 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 8, 9, 12, 13, 14 and

Art Unit: 2774

18 of copending Application No.08/288,882, Patent No. 5,668,570. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Claim Objections

3. The numbering of claims is not accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 22-29 have been renumbered as claims 24-31.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24-26, 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillary et al(4,729,533) in view of Conway et al(5,278,779).

Art Unit: 2774

As to claim 24, Hillary teaches a display device stand for holding a display on a top of flat horizontal surface comprising hinge and clamping means(44, 46) attached to the bottom of edge of the display(100)(see figures 1, 8 and column 7, lines 40-48); a support arm; a support arm means(48 or 12) coupled to the hinge and clamping means(46, 44); a support pivot means(56 or 38 or 18) pivot means coupled to the support arm means(48 or 12) a base unit(10)(see figures 1, 8, 10, 13; column 3, lines 26-39; column 4, lines 2-10; column 5, lines 60-68; column 6, lines 1-6 and column 7, lines 5-61).

As to claim 28, Hillary et al teach a first support pivot means(46); support arm position adjustment means(12) and a second support pivot means(38)(see figures 1, 8).

Hillary fail to disclose a flat panel display. Conway teaches a display device stand for holding a flat panel display(36)(see figure 3C and column 3, lines 27-43). It would have been obvious to have modified Hillary with the teaching of Conway, since a CRT and a flat panel display are both displays and a flat panel display could be more easy to carry than a CRT.

As to claims 25-26, Hillary teaches hinge and clamping means, a support arm means and support pivot means could be adapted to inclination angle, azimuth angle and elevation translation adjustments(see figures 1, 2, 3a, 3b, 6a, 6b; column 6, lines 7-68 and column 7, lines 1-48).

As to claim 31, Hillary et al teach a multi-section telescoping post means(12)(see figures 1-2).

Art Unit: 2774

6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hillary in view of Conway as applied to claim 28 above, and further in view of Park(4,931,019).

Conway teaches a display monitor comprising battery power(see column 3, lines 8-12). Hillary as modified fail to disclose a display assembly can be operational without connection of a first support pivot means, support arm position adjustment means and a second support pivot means and a base unit.

Park teaches a display assembly could be operated without connected first support pivot means, support arm position adjustment means and a second support pivot means and a base unit(see figure 1). It would have been obvious to have modified Hillary as modified with the teaching of Park, so as to simplify the display structure.

7. Claims 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makita(4,859,092) in view of Nagaoka(JP2-148086).

Makita teaches a display monitor comprising a base unit for resting on a horizontal surface; a base support pivot means(7) attached to the base unit near the middle of the base unit(see figure 1 and constitution).

Nagaoka fails to disclose support arm position adjustment means and a panel support pivot means.

Hillary et al teaches a display monitor(11) comprising a base unit(13); a base support pivot means attached to the base unit near the end of the base unit(13); support arm position adjustment means(19) connected to the base support pivot means for position adjustments; a panel support

Art Unit: 2774

pivot means attached to support arm position adjustment means and a flat panel display assembly(23) connected to the panel support pivot means near the bottom edge of the flat panel display assembly(23)(see figure 1).

Makita fails to disclose a base support pivot means attached to the base unit near the middle of the base unit.

Nagaoka teaches a display monitor comprising a base support pivot means attached to the base unit near the middle of the base unit(see figure). It would have been obvious to have modified Makita with the teaching of Nagaoka, since Makita has disclosed base support pivot means attached to the base unit near the end of the base unit(see figure 1) and Makita as modified by Nagaoka could provide a display near close to a viewer.

As to claim 30, Makita teaches a multi-section telescoping post means(19)(see figure 1).

Response to Arguments

8. Applicant's arguments filed 11/16/98 have been fully considered but they are not persuasive.

Applicant argues that claims 24-31 should not be rejected under the judicially created doctrine of obviousness-type double patenting because the claims show in the present application are patently distinct with the claims show in Patent(5,668,570) on pages 1-2. The examiner

Art Unit: 2774

disagrees with that since the claims show in the present application and the claims show in the Patent(5,668,570) are not patentably distinct from each other. For example:

08/937,258 (claim 24)	P.N. 5,668,570 (claim 4)
A display device stand	A desktop display unit
means for flat panel display assembly pivot and clamping function, wherein clamping means is attached to the bottom edge of the flat panel display assembly a support arm means attached to the hinge and clamping means for supporting and positioning the flat panel display assembly	a support hinge pair connected to the bottom edge of the flat panel display means for support arm position adjustment connected the flat panel display assembly for elevation and inclination position adjustment
a support pivot means attached to the support arm means, working in cooperation for plurality of position adjustments	means for pivot connector attached to the bottom portion of the support arm position adjustment means, wherein the support hinge, support arm position adjustment means and pivot connector means work in cooperation for rearward and forward inclination adjustments, and for elevation translation adjustments
a base unit attached to the support pivot means, wherein the base unit provides sufficient mechanical stability	a roughly wedge shape base unit connected to pivot connector means near the front end of the wedge shape base unit

Art Unit: 2774

08/937,258 (claim 27)	P.N. 5,668,570 (claims 4 and 12)
A display monitor adapted so that a viewer has the option to rest the monitor on a roughly horizontal surface on a desk or table	A desktop display unit for computer use by a user, which is to be placed onto the top of a desk or table structure(claim 4)
<p>a base unit adapted fro resting onto a roughly horizontal surface or desk or table</p> <p>a base support pivot means attached to the base unit near the middle of the base unit</p>	<p>means for support arm position adjustment contains sprint assist apparatus and is connected to a roughly flat base structure replacing the roughly wedge shaped base unit, via the pivot connector means, wherein the pivot connector is physically connected at a point from mid to near the rear of the roughly flat base structure(claim 12)</p>
<p>support arm position adjustment means connected to the base support pivot means for position adjustments</p> <p>a panel support pivot means attached to support arm position adjustment means</p>	<p>means for pivot connector attached to the bottom portion of the support arm position adjustment means, wherein the support hinge, support arm position adjustment means and pivot connector means work in cooperation for rearward and forward inclination adjustments, and for elevation translation adjustments(claim 4)</p>
a flat panel display assembly connected to the panel support pivot means near the bottom of the flat panel display assembly	a support hinge pair connected to the bottom edge of the flat panel display assembly(claim 4)

Art Unit: 2774

08/937,258 (claim 28)	P.N. 5,668,570 (claim 4 and 12)
A display monitor wherein the user has the option to rest the monitor on a roughly horizontal surface on a desk or table	A desktop display unit for computer use by a user, which is to be placed onto the top of a desk or table structure(claim 4)
a flat panel display assembly defining a display screen and control electronics	a flat panel display assembly defining a display screen and control electronics(claim 4)
a first support pivot means connected to the bottom edge of the flat panel display assembly	a support hinge pair connected to the bottom edge of the flat panel display assembly
support arm position adjustment means connected the flat panel display assembly for elevation and inclination position adjustments	means for support arm position adjustment connected the flat panel display assembly for elevation and inclination position adjustments
a second support pivot means attached to support arm position adjustment means, wherein the first support pivot means, support arm position adjustment means and the second pivot means work in cooperation for rearward and forward inclination adjustments, and for elevation translation adjustments	means for pivot connector attached to the bottom portion of the support arm position adjustment means, wherein the support hinge, support arm position adjustment means and pivot connector means work in cooperation for rearward and forward inclination adjustments, and for elevation translation adjustments(claim 4)
a base unit adapted for resting onto horizontal surfaces, wherein the base unit is connected to the second support pivot means near the rear of the base unit	means for support arm position adjustment contains sprint assist apparatus and is connected to a roughly flat base structure replacing the roughly wedge shaped base unit, via the pivot connector means, wherein the pivot connector is physically connected at a point from mid to near the rear of the roughly flat base structure (claim 12)

Applicant argues that Conway does not teach a display stand on page 2. The examiner disagrees with that since Conway teaches a display stand(see figures 2A-2D).

Art Unit: 2774

Applicant argues that Conway and Hillary do not teach a stand without a display on page 3. The examiner disagrees with that since Conway and Hillary both teach a stand with a display(see Conway's figures 2A-2D and Hillary's figure 1).

Applicant argues that Conway, Park and Hillary fail to teach the flat panel display can be removable from the first support pivot means on page 4. The examiner disagrees with that since Hillary teach a display can be removable from the pivot means(see figure 13) and Conway teaches a flat panel display can be removable from the pivot means(see figure 1C).

Applicant argues that Nagaoka's display cannot be adjusted vertically in elevation position on page 4. However, Makita teach a display can be adjusted vertically in elevation position(see figure 1). The combination of Makita and Nagaoka meet the limitation in claims 27 and 30.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2774

10. **Any response to this final action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

11. Any inquiry concerning this communication should be directed to Lun-yi, Lao at telephone number (703) 305-4873.

January 21, 1999

Lun - Yi Lao

**Lun-Yi Lao
Primary Examiner**